

ENFIELD PLANNING AND ZONING COMMISSION
MINUTES OF A REGULAR MEETING
APRIL 2, 2009

A Regular Meeting of the Enfield Planning and Zoning Commission was held on Thursday, April 2, 2009, in the Council Chambers, Enfield Town Hall, 820 Enfield Street, Enfield, Connecticut. Chairman Charles Duren called the meeting to order at 7:30 p.m.

PRESENT: Charles Duren, Chairman
James Hickey, Jr.
Nicles Lefakis
Lori Longhi
Kathleen Sarno
Michael Dumont, Voting Alternate
Ronald Gregory, Voting Alternate
Charles Ladd, Alternate

ALSO PRESENT: José Giner, AICP, Director of Planning

MINUTES

Commissioner Sarno made a motion, seconded by Commissioner Ladd, to approve the Minutes of March 5, 2009. The Minutes were approved by a 5 – 0 – 2 vote. Commissioners Hickey and Longhi abstained.

STAFF COMMENTS

a. Town Attorney (in person)

Assistant Town Attorney Maria Elsdén appeared before the Commission. She stated the Commission has before them a report dated March 23, 2009. These are not P&Z cases but the Town Attorney's office lets the Commission know about them because they seek to vary the P&Z regulations. They are ZBA cases. The two cases have been consolidated and since the report was sent, there has been an update from the Court. There is a briefing schedule in place. The plaintiff's brief is due May 11 and the town's brief is due June 11, 2009. A hearing will be scheduled some time thereafter.

Chairman Duren asked about the 8-24 referral for the Fire District. It says either an access and utility easement or a fee interest over the town owned properties and he asked what are the two differences. Ms. Elsdén stated the easement would be the right to use the property. It would be a formal process but it wouldn't be outright ownership. The fee interest means that there would be an actual conveyance of title. Ms. Elsdén stated the Town Attorney is working on this.

Commissioner Hickey felt they were the same thing. Ms. Elsdén stated legally they are not the same thing. One is title and one is not. It's a different type of interest. They would have the right to use the property in either case but they are not exactly the same thing.

Chairman Duren asked if in the 8-24 referral is it the Commission's charge to choose between the two or just refer both back. Ms. Elsdén stated under 8-24 the Commission has the right to give the report. If all things are equal and they haven't

said specifically, she would take the opportunity to say we would rather have a fee in easement or a fee in fee. Some discussion followed on the difference between the two. Ms. Elsdon stated if the Commission has some concerns that they ask that there be some sort of description of the benefits for either case as far as the town is concerned. Mr. Giner stated the Commission may want to recommend both because if the Commission chooses one and the Council passes the other then it would have to pass by a two-thirds majority. The Commission may want to make a recommendation that either one is acceptable.

b. Zoning Enforcement Officer (in person)

Zoning Enforcement Officer Virginia Higley appeared before the Commission and stated the Commission has her report. She stated she has continued to work on signs and cars and she has been getting a lot of calls regarding violations. Ms. Higley stated she also attended a seminar in Middletown this past Saturday and it was very informative.

Chairman Duren stated the reports have been appreciated by the Commission. He referred to Ms. Higley's interoffice memo and stated the Commission was interested in proposed fines. Ms. Higley also mentions reporting to the Department of Motor Vehicles.

Ms. Higley stated she is not interested in coming down hard on first time violations. She has worked on several locations in town – one on Enfield Street and several on Palomba – and it's been the same over and over. She cites them, they start to come into compliance and then they are back to being in violation. Ms. Higley thought she would ask the Commission to think about whether they would want her the second or third time to ask the Department of Motor Vehicles to pull the license. Ms. Higley stated when a new or used car dealership comes in, the Commission sets the location for the placement of motor vehicles along with the lighting, signage and other items. These are the major areas of contention that she finds. They are parking on the grass, there are more cars than allowed, and they have sale signs and banners which are not allowed. Ms. Higley did talk to the Motor Vehicle Department and they told her in towns that have specific conditions of approval, they can pull the license for noncompliance. If it was done once to a dealership, they would be very hesitant to violate the regulations again. Ms. Higley asked for the Commission's opinions, concerns and suggestions before she went ahead with this process.

Ms. Higley brought up signs and stated the Commission has to start thinking seriously whether they want a proliferation of signs all over the town streets and rights of way. She felt it was a form of blight and the town is taking an aggressive stand on blight. Chairman Duren stated the town is violating itself and you cannot very well cite a commercial person for something the town is doing. Mr. Giner stated he spoke to the Assistant Town Attorney and received a written opinion. Chairman Duren stated even with a written opinion, he cannot see if the town is going to use sandwich boards that others would be in violation. Ms. Higley stated perhaps the Commission may want to have their liaison draft language expressing the Commission's feelings on the issue.

Ms. Higley stated she wanted a workshop so that the Commission can decide where they wanted to go. She saw a need to do something soon regarding signs.

Chairman Duren discussed the signs that have been placed on telephone poles. Ms. Higley stated one Sunday she took down seventeen signs placed on telephone poles and they were back up the next week. Chairman Duren read that it is not legal to place signs on telephone poles and it is a violation of state law. Further discussion on the light poles followed. Ms. Higley questioned if the town now owns the poles. Ms. Higley stated she will ask the Assistant Town Attorney about the state law regarding signs on telephone poles.

Ms. Longhi asked how the Commission can proceed with a workshop to get this going. Chairman Duren stated signs will be on the agenda in an upcoming meeting. Ms. Higley would prefer that a meeting on signs is not done on a busy meeting night in order to give this subject full attention.

Ms. Longhi stated pulling a license is a very serious thing to do and it stops a business. She personally would like the Commission to say that that will be the next step before actually doing so. Ms. Higley stated the particular complaint that brought this up goes back to 2002. She would always send a letter out first and does not want to go to Motor Vehicles unless she really has to do so. However, she has been getting calls from residents in the area. Further discussion on car dealerships followed.

Commissioner Ladd stated the Chief of Police sent a memo recently stating that unloading of cars on the street could mean a fine imposed for each car that was unloaded on the street. Ms. Higley didn't get that memo but she did hear from one of the officers that in the past they have fined them \$100 a car. You cannot have an unregistered vehicle on the town streets. However, the car carrier paid the bill and not the car company. Whenever the town tried to site the car company, they were told it is not our truck. Ms. Higley has asked the police and she asked the Commission that if they see any car carriers on the street on Palomba Drive, any cars on the grass or any signs that they call her or email her. Chairman Duren and Commissioner Hickey both noted such violations have been a perennial problem. Ms. Higley stated she does get compliance from the car dealers but it is always when they need something.

Mr. Giner stated the Commission may want to consider asking the Council to revisit the fines ordinance. The town had one many years ago that was never really used. A lot of towns like East Windsor use the fine ordinance very successfully. It is similar to a traffic ticket and it is up to \$150 each day that violation continues. This seems to work very well in other towns.

Commissioner Hickey stated the Commission has certain standards and vigilant enforcement is the answer like the Zoning Enforcement Officer has been doing so that it doesn't become an accepted practice.

Ms. Higley stated she would prefer the fines. She has no problem visiting them or sending a letter but she does have issues when the same ones are constantly in violation. Anytime she does anything regarding the car dealerships, she sends a letter so that there is no question as to what went on. The first time the chronic violator gets the written violation, it would probably be waived. Ms. Higley stated she is not out to put someone out of business but if fines were in place, it would hit

the dealers in the pocketbook. She really thinks for chronic violators that fines are the way to go to get compliance.

Ms. Longhi asked if the Commission would have to make a recommendation to the Town Council. Chairman Duren stated when the Commission discusses signs, they can also consider the fines. He asked if Ms. Higley sends her letters to the corporate headquarters or gives it to the local manager. Ms. Higley discussed the self insured health insurance signs. Their closest office is New London but she also sent a letter to their firm in Dallas, Texas. If she knows it is a local business, she does send it to them but if it is anything that she thinks is beneficial, she will also send it to the corporate headquarters as well.

Commissioner Ladd stated in the conditions it states that the Zoning Enforcement Officer has the power to enforce these conditions. Mr. Giner stated it is in the regulations. Every approval memo that he does includes a last condition that the applicant by accepting the conditions acknowledges the right of the town to visit the property and enforce the conditions of its regulations. Chairman Duren read item 8 on a memo from one of the applications on tonight's agenda stating that town staff has the power to enter the subject property for the purpose of determining compliance with the terms of the approval. Ms. Higley stated that is only until the c.o. is issued. Once the c.o. is issued, she is not allowed on the property. Mr. Giner stated it implies you can go on the property forever but there is constitutional law that may take some precedence over when you can visit someone's property without a warrant. He elaborated on this statement.

Chairman Duren thanked Ms. Higley for her report and stated the Commission will have a meeting regarding signs in the near future.

c. Director of Planning

Mr. Giner updated the Commission regarding the Plan of Conservation and Development. Last week the random survey was sent to approximately 600 residents by the consultant. They were sent out on the town envelopes so residents wouldn't discard them. It is a scientific random survey and they used various sources for the names. The main source was the Motor Vehicles grand list in order to get a good cross section of the community. Mr. Giner advised members of the public that receive the surveys that it is important that they fill them out and send them back. Mr. Giner stated surveys will be placed at the library and other places in town. Mr. Giner will see if he can place the survey on line in some form. Ms. Longhi recommended some surveys be placed here at Town Hall.

Mr. Giner stated the consultant for the Plan of Conservation and Development will be in Enfield the week of April 23. That evening the steering committee will have a meeting at Asnuntuck and agendas will be sent out fairly soon. Mr. Giner stated there will be a Council of Chairs meeting of various boards and commissions in town at 6:30 p.m. on April 15, 2009 at 100 High Street.

Mr. Giner stated under tonight's applications to be received, there is a request for the annual carnival at the mall. He requested administrative approval for this request. Mr. Giner stated the operation is the same as last year. Commissioner Hickey made a motion, seconded by Commissioner Longhi, to allow Mr. Giner to give an administrative approval for the annual Bowdin Amusements Carnival, April 30 – May

3, 2009 at the Enfield Square subject to police and fire department cooperation. The motion was approved by a 7 - 0 - 0 vote with Alternates Dumont and Gregory voting.

Mr. Giner stated the Commission had asked him to research what other towns were doing in terms of partial bond releases. He did put out a notice on the planning discussion site and received a few responses. He asked that the Commission review them and at a subsequent meeting discuss what direction the Commission wants Mr. Giner to go and he will be happy to draft something for the Commission's approval.

Mr. Giner stated limited retail sales are allowed as long as they are related to the property in industrial zones. He noted they are getting more and more requests for pellet sales. At the old CL&P property, there is a gentleman that wants to store pellets in the existing outside bins, have people phone in orders and be able to pick them up there. Right now the only way retail sales are allowed is by special permit if it is ten percent of the floor area. Mr. Giner has been asked by Ray if the Commission would be amenable to allowing these types of sales in I-2 zones. They don't really fit into retail but would be limited sales in an I-2 zone. I-2 zones usually have outside storage and construction operations. If the Commission thinks such sales are a good idea, Mr. Giner can draft something for the Commission's consideration at a future meeting. Mr. Giner stated the applicant wants to use the bins that are existing and it would not be a distribution area. If no one ever visited the property, the storage of such wood pellets would be allowed in an industrial zone. The problem is sales to the public in industrial zones.

Mr. Giner stated if the Commission feels these types of uses would be okay for I-2 zones, he will draft something that would limit what could be allowed. The consensus was for Mr. Giner to go ahead and draft something. Chairman Duren noted the Commission has allowed retail sales in the past for the card companies.

Mr. Giner stated a gentleman wants to rent a unit at Peerless Way for the purpose of internet phone sales only. He wants to set up an office and store cars in there to sell over the internet. Mr. Giner noted auto sales are not allowed in I-1 or I-2 zones. Chairman Duren felt this would be changing the use of the unit and they were supposed to be for incubator businesses. The units were supposed to be for small businesses like electricians or plumbers that needed an office.

Mr. Giner stated at Walgreen's on Shaker Road they would like to install an automated DVD sale machine outside against the building. He asked if this would be a site plan review. Commissioner Hickey noted this is a popular use and he has seen them and they are fairly unobtrusive. Commissioner Longhi stated the reason for the outside use is so that people can return the DVD's at any time and not have to worry about whether the facility is open. Commissioner Ladd felt such a machine would lend itself to vandalism and theft. The consensus of the Commission was to see this application as a site plan review. Chairman Duren stated he has had so many compliments on the Walgreen's site. Mr. Giner stated the only concern is whether such a machine with the lights on will impact the houses across the street. Mr. Giner will schedule this application for the next agenda.

Chairman Duren asked about the location of the shed at Mark Twain for the Little League. Mr. Giner stated it is located behind another shed that is existing and

between the two ball fields. It was later determined that the site plan with the location is in the Commission's meeting packet.

CORRESPONDENCE

Chairman Duren reported Correspondence includes the following: a letter from the Department of Transportation about the Five Guys Hamburgers and Fries with conditions; correspondence from the Enfield Revitalization and Strategy Committee regarding residential rental units conversion; a memo from the Zoning Enforcement Officer; CRCOG referrals from other towns; information from the Town of East Longmeadow; and a letter from Janet Piper of Oldfield Farms concerning Costco parking and traffic flow. Concerning the last item, Chairman Duren asked that Mr. Giner send a copy of this letter to Costco as they might be interested in it. Chairman Duren noted the white lines on the grass are on pavers and designed for overflow periods. Mr. Giner stated he will respond to that letter and he will make sure that Costco gets a copy. Chairman Duren asked that Mr. Giner send a copy to the police department as they might have some suggestions for Costco. Commissioner Hickey stated the Costco site was well planned but Costco has just been such a success.

Chairman Duren stated Correspondence includes an interesting item on a municipal rain garden. Mr. Giner stated that in Coventry, there is an overlay zone around their lake areas where they set impervious coverage fairly low. This is something the Commission should consider for the lake areas in town that may be sensitive to increased runoff and the effects it can cause on the lakes. Perhaps having an overlay that says you can do certain things would be a good idea for the town to be proactive.

Correspondence also includes letters to Tim Fortune from Katie Bednaz regarding Wetlands Permit #IW-471.04, to Albert Nitch and Terri Hoerauf regarding Wetlands Permit #IW-513, and the Town of Enfield Public Works Department regarding Wetlands Permit #IW-516. Also received were the Inland Wetlands Notice of Action dated March 3, 2009 and March 17, 2009 and a publication entitled Zoning Practice, Practice Wise Sign Controls. There is also information on the Land Use Academy and information on a course at Northeast Utilities on Advanced Topics of Economic Development to be held March 31, May 13 and September 30, 2009. Chairman Duren reported there is another seminar scheduled on Tuesday, April 14, 2009 sponsored by Northeast Utilities.

Chairman Duren stated he keeps receiving letters from the American Planning Association stating they don't have his email address. Mr. Giner will send a copy of everyone's emails to the Association.

Chairman Duren stated he read information from the American Planning Association regarding Introduction to the Planning Commission, Part 1 and Part 2, and he noted those would be worthwhile for new members of the Commission.

Chairman Duren stated some of the Commission attended a meeting in Middletown. Commissioner Longhi stated it was an all day event sponsored by the Connecticut Bar Association and it was very informative. They gave out a book for reference on case law and procedures. It was a long day and there was a lot of material covered. It was very well attended by other boards and commissions and it was worth

attending. Chairman Duren noted there were approximately fifteen people from Enfield that attended.

Commissioner Ladd asked about the status of North Maple Street. He drove through there the other day and the sand piles are still there. Mr. Giner stated the intent was to wait until spring. Spring is here and he will see if the town crew can do the work. The work is scheduled to be completed by May. Mr. Giner stated the developer has defaulted and the Commission voted to call the bond. If the town crew cannot do it, Mr. Giner will get some estimates. Commissioner Hickey stated he would like to see the work completed.

PUBLIC HEARINGS – NEW

- a. PH#2668 – Special Use Permit for a Class 3 (package store) liquor license at 1541 King Street in a Business General District, Assessor's Map 17, Lot 92, APAK LLC, applicant; Joseph and Robert Rinaldi, owner. (Must close by May 7, 2009)

Chairman Duren asked if the public hearing signs have been posted and Mr. Giner reported they have been.

Attorney Carl Landolina representing the applicant and Stephen Jager, the project architect, appeared before the Commission regarding this application.

Attorney Landolina stated as the public notice indicates, they are before the Commission seeking a Class 3 liquor permit for the retail sale of alcoholic beverages for property at 1541 King Street. The Commission should have two sheets dated February, 2009 showing the exterior of the property and the interior of the building and the changes they propose to make. The building was constructed approximately 1950 and for many years has housed various restaurants. The most recent restaurant was My Pueblo, a Mexican restaurant. The property has been vacant for some time.

Attorney Landolina stated his client is the proprietor of the Super 8 Motel located to the rear of the restaurant. He acquired title to the property two days ago from the Rinaldi's. Attorney Landolina stated they don't propose to do any modifications to the property other than to add an 8' x 10' cooler to the exterior of the building. It would be accessed from the interior of the building. The property is just over an acre and even with the addition of the cooler, they meet the coverage requirements and the impervious surface requirements. There is adequate parking and in excess of about 28 parking spaces. There are double the parking spaces than were originally required when the entire site was used as a restaurant. They intend to take 1,000 square feet of the existing restaurant, the main dining room, and turn that into the package store. They propose to seek a tenant for the remaining space which would be a much smaller restaurant with only 38 seats. Chairman Duren noted the Commission is not approving anything to do with the restaurant tonight. Attorney Landolina agreed and stated they are just asking for the liquor permit.

Attorney Landolina stated the layout will take about forty percent of the floor space. They don't intend to use the full basement under the building but that will be reserved for the tenant if and when they get one.

Attorney Landolina stated they meet all the zoning requirements. There is a separating distance requirement under the regulations which requires that there be 1,000' from the same class of permit. There are no package store permits within 1,000' of the proposed site. They also need to be 1,000' from a specified land use which includes public schools, public playgrounds, churches or buildings used as a place of worship. Attorney Landolina stated to the north and on the west side of Route 5 is a church. They have noted that the distance between the proposed package store use and the church is 1,485 linear feet door to door which is the measurement set forth in the regulations.

Attorney Landolina stated there have been restaurants at this location over the years that have had full service liquor permits. They do not intend to follow that use. They only intend to use the premises for a package store. Any tenant that might come in they don't intend for them to have the sale of alcoholic beverages. If they do, that would be between this Commission and that tenant. They don't have ownership of the permits that were in existence previously and they have no intent to revive them. They will have one permit at this location at this time.

Commissioner Hickey questioned why it is necessary to have the cooler outside. Attorney Landolina stated the idea was not to intrude too much into the restaurant area. The cooler is a walk in and it is not meant to be permanent storage. Therefore, it needs to be on that level.

Steve Jager stated the building is a little over 2,900 square feet. Commissioner Hickey stated about fifty percent will be allocated to the liquor store. He asked how does that render the balance of the building in terms of its suitability for leasing out to another use. Attorney Landolina stated there has always been a full service restaurant in this building. They do not intend to rent to a full service restaurant. They envision a pizza type restaurant which would be mostly take-out business.

Commissioner Longhi stated the measurements did not appear to be done by a surveyor and she asked how they were obtained. Specifically, she was interested in the measurements to the church which was 1,485'. Mr. Jager stated he actually went out and measured the distance. Mr. Giner stated he double checked with a measuring tool on the internet.

Commissioner Longhi asked about the access to the bathrooms. It didn't show a door where the existing corridor was. She also asked about the handicapped. This building is not really handicapped accessible and she is assuming the use was grandfathered. If another use is approved, Commissioner Longhi asked if they have to comply with ADA standards. Mr. Giner stated that is a building code issue. It may be that they do and if they did have to do anything to the exterior as a result, they would have to come back to the Commission. Chairman Duren asked if this was discussed at the ART meeting. Mr. Giner stated there are fire code issues that get discussed.

Commissioner Hickey stated he is not familiar with the state package store requirements and he asked if it doesn't require total segregation from adjacent uses. In other words, it is a self-contained entry. Attorney Landolina stated they may have to build an interior door so that as you come in there will be a doorway. Chairman

Duren stated they need a separate place to bring the alcohol through. Commissioner Hickey brought up the package store at Costco which needed a separate entrance.

Commissioner Longhi had a concern about the day care center next door. She drove by when the Enfield school system was dropping off children. Part of the special use permit is to take the residents of the immediate neighborhood into consideration. It is the abutting property and it is a concern.

Attorney Landolina stated there has for many years been a liquor permit at this location. It's been an on-sight consumption permit. You have people that have driven to the site, consumed alcohol and driven from the site. What they are requesting would be a less intensive use and it is not for on site consumption. It is a lesser impact on the neighborhood than what is existing now.

Commissioner Longhi stated when the restaurants were in operation, most of them were not open for lunch. Most of the consumption was more at night. Attorney Landolina recalled being at Carmen's for lunch. He understands the concern and felt this use would be a lesser impact on the day care center. There is also an intervening property between this use and the day care center.

Commissioner Longhi stated the properties are open and not really separated. Even though it might be an intervening property, it is very open and looks almost like one property. Attorney Landolina stated the reason for that is when the property was owned individually, there were all kinds of rights of way, driveway easements and such crossing the property so that it could not be closed. He noted there is a fence between the package store, the motel and the day care center. Commissioner Longhi stated the day care has their playground up against the motel's property. This was her main concern because the school buses were dropping off children.

Mr. Giner stated the Commission has a memo with proposed conditions. The Enfield Fire Marshal is present if the Commission has any concerns.

Chairman Duren stated the Commission is approving the use of the building for a package store. There are two accesses and if a handicapped ramp is required, they would have to come back. Mr. Giner stated if required. They may be able to comply by installing an interior door. Attorney Landolina stated if they cannot, the Commission will see them back before them. Chairman Duren stated they would have to show it on their drawing if there is a door there. The question was to use the lavatories you would have to exit and go back in. Commissioner Hickey stated there was a major issue with the Costco package store.

Commissioner Sarno stated it states that it must be 1,000' from a specified land use. She asked if the day care is not being taken into consideration because it is not public. Mr. Giner stated that is correct. He mentioned the day care at 155 Hazard which was approved near a package store. It is only meant for public schools. If there is a concern, Mr. Giner stated that can be added to the regulations. Commissioner Longhi stated 155 Hazard Avenue is not near residential properties.

Chairman Duren opened this hearing to the audience. No one spoke in favor or against this application. Chairman Duren closed this public hearing.

Commissioner Hickey made a motion, seconded by Commissioner Lefakis, to approve PH#2668 – Special Use Permit for a Class 3 (package store) liquor license at 1541

King Street in a Business General District, Assessor's Map 17, Lot 92, APAK LLC, applicant; Joseph and Robert Rinaldi, owner. This approval is subject to conformance with the referenced plans and the following conditions:

Referenced Plans:

"Proposed Package Store, APAK, LLC, Kings Wines & Liquors" Site Plan, Sheet A1, Scale 1"=20', by Stephen Jager Associates, LLC, dated 4 February 2009.

"Proposed Package Store, APAK, LLC, Kings Wines & Liquors" Ground Floor Plan and Distance Plan, Sheet A2, Scale 1/8"=1'-0", by Stephen Jager Associates, LLC, dated 5 February 2009.

Conditions to be Met Prior to Signing of Certificate:

1. The conditions of this approval shall be binding on the applicant, land owners, and their successors and assigns.

Conditions to be met prior to the issuance of permits:

2. This approval will become effective upon the filing of a Special Use Zoning Certificate signed by the Commission Secretary on the Land records by the owner of the property. Proof of such filing shall be in the file prior to the issuance of any permits.
3. Fire Marshall approval of the building plans will be required.
4. The restaurant is subject to approval of the North Central District Health Department

General Conditions:

5. The existing liquor license for the restaurant is being abandoned. Any future alcohol sales permit for the restaurant will require an approval by the Enfield Planning and Zoning Commission.
6. This approval is for the specific use and structures identified in the application. Any change in the nature of the use or the structures will require new approvals from the Enfield Planning and Zoning Commission.
7. The approval for the Class 3 package store license only. Any changes to the interior layout or functions of the space shall require an amendment to the Special Use permit.
8. By acceptance of this permit and conditions, the applicant, land owners, and their successors and assigns acknowledge the right of Town staff to periodically enter upon the subject property for the purpose of determining compliance with the terms of this approval.

Chairman Duren asked if the applicant has received the memo from Mr. Giner with the conditions. Attorney Landolina stated the applicant has and they have no problems with it.

Commissioner Hickey stated he feels the proposed application, even though he feels it is not the ideal use for the building, is in harmony with the orderly development of the district as outlined in Section 9.2.02 of the Zoning Ordinance. Commissioner Hickey understands the concerns about the day care center to the north but the

operation of the restaurant well preceded the operation of the day care center. Commissioner Hickey would like to see this building put to some use because it has been vacant for too long. He thinks a package store might be of some economic benefit to the town.

The motion was approved by a 7 – 0 – 0 vote with Alternates Dumont and Gregory voting.

Chairman Duren noted the reasons for approval are it is readily accessible for fire and police and the proposed use will be in harmony with the development of the area. It has always been a restaurant or a place where alcohol was served.

b. PH#2670 –Special Use Permit for a 2770+/- s.f. addition to a Retail Shopping Center (Brookside Plaza) at 10 Hazard Avenue in a Business Regional District, Assessor's Map 56, Lot 22, Equity One, Inc., owner/applicant. (Must close by May 7, 2009)

Douglas Hartnett appeared before the Commission representing Equity One along with Ronald Baretti, the project architect, Ken Mishette, Vice President of Construction for Equity One and Walt Randall, a local PetSmart store manager. Mr. Hartnett presented a colored site plan for the Commission's consideration.

Mr. Hartnett stated the site is within a Business Regional District located at 10 Hazard Avenue, Brookside Plaza. The project is the renovation and expansion of an existing vacant tenant space on the west end of Brookside Plaza. The potential tenant is PetSmart. The project entails the renovation of the existing 15,000 square feet of tenant space currently unoccupied and the addition of about 2,700 square feet of space for loading and storage area.

Mr. Hartnett stated the project requires an additional seven parking spaces in order to accommodate the minimum parking requirements of zoning. An analysis was done for the plaza to determine if there was sufficient parking. Existing right now are 1135 parking spaces and with the addition, seven more spaces are required for a total of 1,142 parking spaces. Their analysis of the parking capacity of the plaza is 1,179 so there is no increase in parking needed presently for the plaza to accommodate the proposal this evening.

Mr. Hartnett stated they have the building addition, a ramp loading area shown in dark gray, a concrete pad area to accommodate the dumpster locations that will have a canopy over them, and there will be a removal of about a two foot strip of pavement away from the wetlands.

Mr. Hartnett stated the application was filed on March 9, 2009 for both the Planning and Zoning Commission's consideration and Inland Wetlands' consideration. They had their initial meeting with the Inland Wetlands Commission on March 17. They had an ART on March 25, 2009. Revised documents were resubmitted to Planning and Zoning. They had their second hearing with the Inland Wetlands Commission this past Tuesday night. The Commission found that the project would not result in any significant impact to adjacent wetlands. Chairman Duren confirmed that the Commission is in receipt of wetlands permit #IW-518.

Mr. Hartnett stated building coverage is not an issue for the existing Brookside Plaza. The use covers approximately 14.4% of building coverage within the footprint of the

land. It increases by one tenth of a percent and the maximum is twenty-five percent so that does not become an issue. Additionally, regarding impervious coverage, a small amount of green space associated with some adjacent traffic islands is displaced by the building addition. To not increase impervious coverage, a decision was made in discussions with the Inland Wetland Commission to remove a portion of the pavement. This results in a net increase in green space.

Chairman Duren stated the Commission has a memo from John Cabibbo dated Friday, March 27, 2009 which says that all previous engineering concerns have been addressed. There is also a memo from Dan Parisi, Water Pollution Control, and they have some questions about animal hair going into the drains. There is also an affidavit that the signs were posted. The Enfield Fire District and Ed Shirley sent a memo and they have no concerns with regard to fire safety.

Mr. Hartnett stated regarding the animal hair issue, their initial design included a connection from the dumpster area to the sanitary sewer system as requested by John Cabibbo. After the ART review, it came to their attention that Water Pollution Control was not really keen on the fact that they wanted to connect to the sanitary sewer system because the dumpster enclosure was not completely water tight. They had this discussion with the Wetlands Commission this past Tuesday night and there was an agreement that they would connect that dumpster drainage area to the storm water system with no further mitigation. They were satisfied enough about the operational aspects of removing the animal waste.

Mr. Baretti stated the main purpose of the addition is to create a loading area suitable for the PetSmart operation and a slight increase in the sales area. The addition would bring the loading area into compliance with what PetSmart's operation requires.

Chairman Duren asked if the material for the building would match what is there presently. Mr. Baretti confirmed that it will.

Commissioner Hickey stated this is a special use permit and is this because this is the Business Regional District. Mr. Giner confirmed that to be correct. Any additions or changes to the Regional District require a special use permit. Otherwise it is a straight site plan. If it was not for the addition, they would not need to come before the Commission. It would be retail to retail and they would just require a building permit.

Commissioner Sarno asked if they will be increasing the amount of animals they will be selling. Mr. Hartnett stated the addition is just for the trucks. He pointed out that this is not a PetSmart that provides veterinary services nor does it provide lodging. There will be grooming and the sale of pets.

Mr. Giner stated the Commission has a memo and they have received all the approvals needed. Water Pollution Control's concern is addressed in the conditions.

Mr. Hartnett stated he has no problem with the fourteen conditions.

Mr. Giner stated Water Pollution Control's conditions are 2, 3 and 4 in his memo. Commissioner Longhi stated Condition #10 should be removed. Mr. Giner stated 10, 11 and 13 of the conditions should be removed.

Mr. Randall stated they would be inspected by animal control. The grooming facility would be checked twice a year.

Chairman Duren opened this hearing to the audience. No one spoke in favor or against this application.

Commissioner Hickey made a motion, seconded by Commissioner Lefakis, to approve PH#2670 –Special Use Permit for a 2770+/- s.f. addition to a Retail Shopping Center (Brookside Plaza) at 10 Hazard Avenue in a Business Regional District, Assessor's Map 56, Lot 22, Equity One, Inc. owner/applicant. This approval is subject to conformance with the referenced plans and the following conditions:

Referenced Plans:

"Brookside Plaza - PetSmart Building Addition, Hazard Avenue, Enfield, CT" Title Sheet T001, by Cubellis, dated 3/09/2009 and revised to 3/26/09.

"Brookside Plaza - PetSmart Building Addition, Hazard Avenue, Enfield, CT" Key Plan C101, Scale 1" =80', by Cubellis, dated 3/09/2009 and revised to 3/26/09.

"Brookside Plaza - PetSmart Building Addition, Hazard Avenue, Enfield, CT" Existing Conditions C102, Scale 1" =20', by Cubellis, dated 3/09/2009 and revised to 3/26/09.

"Brookside Plaza - PetSmart Building Addition, Hazard Avenue, Enfield, CT" Site Plan, C103, Scale 1" =20', by Cubellis, dated 3/09/2009 and revised to 3/26/09.

"Brookside Plaza - PetSmart Building Addition, Hazard Avenue, Enfield, CT" Detail Sheet, C104, Scale: "Not To Scale", by Cubellis, dated 3/09/2009 and revised to 3/26/09.

"Brookside Plaza - PetSmart Building Addition, Hazard Avenue, Enfield, CT" Stockpile Plan, C105, Scale 1" =20', by Cubellis, dated 3/09/2009 and revised to 3/26/09.

"Brookside Plaza - PetSmart Building Addition, Hazard Avenue, Enfield, CT" PetSmart Floor Plan A101, Scale 1/16" =1'-0", by Cubellis, dated 3/09/2009 and revised to 3/26/09.

"Brookside Plaza - PetSmart Building Addition, Hazard Avenue, Enfield, CT" Exterior Elevations A201, Scale 1/16" =1'-0", by Cubellis, dated 3/09/2009 and revised to 3/26/09.

Conditions to be Met Prior to Signing of Mylar Plans

1. The conditions of this approval shall be binding on the applicant, land owners, and their successors and assigns. A copy of the approval motion shall be incorporated into the final plans submitted for signature.
2. The final plans shall be revised to show that the drain to be located under the dumpster is designed to discharge to the stormwater system, instead of the sanitary sewer system as currently shown.
3. For all sewer pipes, show on the drawing(s) the length, diameter, slope, location, and type of pipe; for inverts show elevation in and out, and for frame(s) show elevation at the top. Show on the drawing(s) details for sanitary

sewer structures and a sanitary sewer trench detail. Sewer system shall conform to Town of Enfield, Subdivision Regulations, revised as of February 12, 2002, and on the Town of Enfield Public Works Department drawings titled Typical Details I, II and III."

4. Show on diagram(s) - "WPC shall be notified 24 hours in advance for all inspections required for installations of sewer system{s}. Please call 860-253-6450 – if no one is there, please leave a message."
5. The application number, PH #2670 shall be added to the plans above the title block.
6. All plans submitted for signature shall require the seal and live signature of the appropriate professional(s) responsible for the preparation of the plans.

Conditions to be met prior to the issuance of permits:

7. This approval will become effective upon the filing of a Special Use Zoning Certificate signed by the Commission Secretary on the Land records by the owner of the property. Proof of such filing shall be in the file prior to the issuance of any permits.
8. One mylar plan and three paper plans with any required revisions incorporated thereon shall be submitted for the Commission's signature. In accordance with Section 9.10.6 of the Regulations, the applicant shall also submit final plans in a digital format prescribed by the Director.
9. Fire Marshal approval of the building plans will be required.

General Conditions:

10. This approval is for the specific use and structures identified in the application. Any change in the nature of the use or the structures will require new approvals from the Enfield Planning and Zoning Commission.
11. By acceptance of this permit and conditions, the applicant, land owners, and their successors and assigns acknowledge the right of Town staff to periodically enter upon the subject property for the purpose of determining compliance with the terms of this approval.

Commissioner Hickey felt this is a benign use and it is a good use for the property.

The motion was approved by a 7 – 0 – 0 vote with Alternates Dumont and Gregory voting.

Chairman Duren stated the reasons for approval are the premises are accessible for fire and police protection, the proposed use, location and character will be in harmony with the development of that particular district, and it is filling a vacant store.

- c. PH#2659.02 – Modifications of Plans and Conditions to a previously approved Special Use Permit to allow: 1) an 800 +/- s.f. addition to an existing Retail Shopping Center for expansion to a previously approved Roller Skating Rink; 2) change from an approved Pool Hall to Laser Tag and 3) a Change in the previously approved operating hours for the indoor recreational uses at 138 South Road, in a Business Local District.

Ira Nagle, 80 First Avenue, New York, New York appeared before the Commission regarding this application. He stated he is the owner of the shopping center at 138 South Road.

Mr. Nagle stated the last time he was before the Commission he had an applicant for a pool hall which has since disappeared. Then there was supposed to be a hairdresser but that tenant has disappeared. He is before the Commission for final jeopardy. He would like to keep the arcade where it is. He has advertised the roller rink and had a lot of people make comments about what they would like to see and not like to see in that roller rink. He also had the town say they would like some other entertainment in the remaining space and that is why they are applying for the laser tag use. Mr. Nagle would like to have the laser tag use where the pool was to be.

Commissioner Dumont asked what laser tag is. Mr. Nagle stated it is a type of army game where you have light guns and there is absolutely no contact.

Commissioner Hickey asked where does the laser tag fall under the auspices of permitted uses under the zoning ordinance. Mr. Giner stated it would be an indoor commercial recreation use. It requires a special use permit approval.

Chairman Duren stated the laser tag would take the place of the pool hall. He asked if this is the one that had the upstairs. Mr. Nagle stated that is the arcade which is on the left next to the Chinese restaurant.

Chairman Duren stated both the uses of roller rink and laser tag are going to increase the usage in his opinion and it is going to be a heavy usage. It is going to really change that shopping center. Chairman Duren asked if the uses are going to be connected. Mr. Nagle stated the roller rink and the laser tag do have a connection of five feet in the front.

Chairman Duren asked how the coming and going of patrons will be controlled. Mr. Nagle stated there are going to be several employees – two at the laser tag and at least four at the roller rink at all times.

Chairman Duren stated it is his understanding that laser tag is totally in the dark. Mr. Nagle stated there are black lights. Chairman Duren questioned if two employees is enough to handle the laser tag. Mr. Nagle stated yes. The players play in the laser tag area and he would like to move the bathrooms a little bit to give them room to play.

Commissioner Hickey stated Mr. Giner indicated earlier that the proposed use requires that the applicant demonstrate certain standards as a special use permit. He read those requirements to the applicant. He asked that the applicant elaborate on how this proposed use will meet the standards in the regulations.

Mr. Nagle stated the laser tag is a much more innocuous use than a pool hall. Only twenty people can play this game at any one time. As far as the traffic flow to the center, he would hope that it improves it but he doesn't think it will overly impact the amount of traffic.

Commissioner Hickey stated the Commission has to make their decision based on the applicant meeting those standards. He wants the record to show that Mr. Nagle is giving testimony to that effect. Mr. Nagle stated he gives testimony to that effect.

Chairman Duren asked if the laser tag use has a new customer waiting area and how will that be controlled. Mr. Nagle stated someone will supervise the area. There is the potential for twenty customers sitting in the waiting area. Then they would go in to the changing area where the vests are. They would put on their vests and then go into the laser tag area and play. They would then exit back into the changing area and take their vests off and then exit the area. The laser tag use is timed but Mr. Nagle was unsure if a bell goes off. Chairman Duren stated there could be quite a crowd hanging out in front.

Chairman Duren stated Mr. Nagle has confirmed four staff members for the roller rink. Mr. Nagle stated at any given time someone would have to be at the entrance at the corner of the roller rink to monitor those going in and out. There will be someone at the snack bar at all times and someone at the skate rental area at all times. There will be a single person supervising the rink at all times.

Commissioner Ladd referenced the three letters from Captain Collins of the Police Department having a concern. Mr. Nagle stated he has met with Captain Collins and he has seen two of the letters.

Commissioner Ladd asked if Mr. Nagle is willing to hire police officers to monitor the rink. Mr. Nagle responded yes and he would want to make sure the place is safe and secure.

Mr. Nagle discussed how the hours came about. The rink was meant to be for a much younger crowd but when it was marketed by the operator. Chairman Duren asked who the people are that Mr. Nagle is referring to. He has quoted that he has talked to people in town and this is what they wanted. Mr. Nagle stated the people are residents of Enfield that have approached him. Chairman Duren stated usually the Commission gets letters and Mr. Nagle apparently knows something the Commission is not aware of. Mr. Nagle stated they sent out flyers and people see him working in the plaza and make comments. The one comment he was startled by was that some of the adults wanted to come to the roller rink. Chairman Duren asked how many. Mr. Nagle stated at least twenty people and a lot of them might have been parents from the Enfield Day Care.

Commissioner Hickey asked how many square feet will there be in all three units. Mr. Nagle stated somewhere between 11,000 and 12,000 square feet if you include the upstairs. Commissioner Hickey asked if this is leased to one tenant or three. Mr. Nagle stated there will be three separate leases. Commissioner Hickey would suggest as a condition if the Commission saw fit to approve this that the restrictions the Commission might impose be incorporated into the leases. Chairman Duren stated they would have to be. Mr. Nagle stated that is fine with him.

Chairman Duren asked about the reason for the addition. Mr. Nagle stated the size of the room went from a kiddie room to more of an adult rink.

Chairman Duren stated the Fire Commissioner has sent a letter and he has a problem with knocking out that wall and he wasn't sure whether he would give permission or

the power company. It deals with some power equipment. Mr. Nagle stated there is power equipment. Mr. Nagle has made modifications to make sure that the egress meets the fire code. Chairman Duren stated there was talk of knocking out a wall and he doesn't know what is back there – transformers or something. Mr. Nagle stated he is giving the Commission a copy of that right now. He was only made aware of that this morning. There are old style transformers in the back of the building and the concern of the fire department was to make sure that there is the correct amount of egress for people to get out of the back exits. Chairman Duren asked if Mr. Giner has allowed for this in his conditions. Chairman Duren noted the Fire Commissioner will have to approve it. Mr. Giner stated he did put a condition 4 in stating that permits shall show the location of wall and ground mounted transformers and any modifications shall be approved by the Fire Marshal prior to the issuance of any permits.

Commissioner Sarno brought up the issue of safety. If someone gets hurt, will one of the four employees monitoring the rink know what to do? Mr. Nagle stated he is hoping to hire a rink guard that can handle such situations. The rink guard would be on the rink in roller skates. Commissioner Sarno asked if these regulations would be in the lease. Mr. Nagle stated typically a landlord wouldn't put that in the regulations but if the Commission hands down zoning regulations that require it, he would then incorporate it into his lease. Commissioner Sarno stated not necessarily zoning regulations. She asked if the tenant that is going to rent this rink is going to do that and how will it be enforced. Mr. Nagle can put into a tenant's lease whatever he would like so that the tenant would have to follow that. The reality is unless he is standing at the rink every day, there is difficulty enforcing it. But if it is brought to his attention through legal channels, then he can address it with the tenant and tell him he is violating his lease and take the appropriate action. Commissioner Sarno stated it would then be included in the lease and Mr. Nagle confirmed this.

Commissioner Hickey stated that should be a condition. Mr. Giner stated the condition would be that at least one employee be certified for emergency first aid. Commissioner Hickey stated the Commission is imposing conditions on Mr. Nagle and not on the operators of these various uses. Chairman Duren stated he doesn't know who the operators are. Commissioner Hickey asked if the operators should be coming before the Commission for these uses. Mr. Giner stated that is correct but the owner or the applicant can apply. It has to be filed on the land records and the Commission can impose conditions on Mr. Nagle that he has to then impose on his tenants. Mr. Nagle may be doing this on spec.

Commissioner Hickey stated he has a concern regarding the potential for problems as stated by the police department. He doesn't want this Commission to approve something that cannot be controlled. The area is on South Road with residences across the street.

Commissioner Longhi asked what is done with racquet ball courts and is first aid on the premises required. Chairman Duren stated the Commission has not in the past but that doesn't say the Commission cannot now. Commissioner Sarno stated she believes in the health clubs that the personal trainers are medically trained for CPR and related items.

Chairman Duren stated this application to him is a lot different than when Mr. Nagle was in here before. He has increased the density of the use. There is a lot of difference between laser tag and a pool hall. Also, the uses approved the first time were not as intense as the present proposal.

Chairman Hickey stated he has referenced the particular zoning regulations that Mr. Nagle needs to meet. He has to demonstrate that he will meet the standards of the special use permit.

Mr. Nagle stated he is not schooled in zoning. All he was trying to do was give the residents of Enfield an entertainment venue that he thought they would enjoy.

Chairman Duren brought up hours of operation. Mr. Giner stated the original hours approved were 12:00 noon to 9:00 p.m. Sunday through Thursday and from 11:00 a.m. until 10:00 p.m. on Friday and Saturday for the roller rink and the arcade. The pool hall hours of operation were limited to 5:00 p.m. to 12:00 midnight Monday through Friday and from 12:00 noon to 12:00 midnight on Saturday. Chairman Duren stated what he is now requesting for the skating rink is Monday through Thursday 7:00 to 10:00 p.m., Friday 7:00 to 2:00 a.m., Saturday 11:00 a.m. to 2:00 a.m. and Sunday 11:00 a.m. to 8:00 p.m. Chairman Duren felt this is a residential area and there will be kids hanging around. In his opinion 2:00 a.m. is too late to have kids roaming the streets. Mr. Nagle stated the evening hours on Friday and Saturday are supposed to be for ages 21 and up. There is no alcohol being served in this roller rink. The police captain had issues about alcohol consumption and the behavior. Chairman Duren stated there probably will be out in the parking lot but that is not part of this application. Chairman Duren stated if they are open at 2:00 a.m. there will be kids hanging around and this is close to a residential neighborhood.

Commissioner Hickey asked if in his business model Mr. Nagle has predicted what type of crowds he will be attracting to this proposed use. Mr. Nagle projected 500 adults skating. He saw a need for this use. Commissioner Longhi felt 2:00 a.m. is a little late. She felt the roller rink would draw a lot of kids and if the use is open until 2:00 a.m. there is a place for them to go and stay.

Chairman Duren stated Mr. Nagle is requesting 2:00 a.m. as the hour for the laser tag use. Mr. Nagle stated he would be happy if the Commission changed the hours to what they felt was appropriate. The idea of asking for those hours was that after 9:00 on Fridays and Saturdays that it would be for ages 21 and up. Chairman Duren stated Enfield is a border community and the closest roller rink is Vernon. This use will be drawing from Suffield, Somers, East Windsor and other adjoining towns. This is the problem with 2:00 a.m. and also the use is close to a neighborhood.

Commissioner Ladd stated he would recommend that the Commission go with Captain Collins' recommendation of 11:00 p.m. Chairman Duren stated he would like to keep the same hours as last time of 11:00 a.m. to 10:00 p.m. on Friday and Saturday. Commissioner Longhi felt 10:00 p.m. is too early. She suggested 12:00 midnight or 11:00 p.m. Commissioner Dumont stated he does remember a McDonald's being open until midnight and a lot of the younger adults used to hang around past 10:00 p.m. He would not want to go with operating hours later than 12:00 midnight. Chairman Duren stated he would go with 11:00 p.m. He noted

what is proposed now is doubling the intensity of the use with the laser tag and the roller rink.

Commissioner Hickey stated he goes back to what the zoning ordinance says under Section 9.20.2. There are standards and the Commission has to vote based on those standards. If things don't work out, the Commission will be called into question why they didn't take those into consideration.

Commissioner Sarno stated if there is such a demand for roller skating and there is a need to expand it, why not make the whole thing a roller rink. Mr. Nagle stated in the shopping center there are columns with forty foot spans so you really can't. They don't make trusses that big. The only thing that you can do is go between the forty feet and go in one direction.

Mr. Nagle brought up the arcade and the birthday party room. Chairman Duren asked what the Fire Marshal said about using the upstairs for activities. Mr. Giner stated that is still up in the air. Chairman Duren questioned if that was a private area for the office. Mr. Giner stated the last time the representation was that the upstairs could not be used for anything. Mr. Nagle stated he consulted with the architect and he does have two means of egress upstairs and that it is proper for use. He would like to use it for birthday parties.

Chairman Duren opened this hearing to the audience.

Jennifer Hornski, 18 Arrow Street, stated she is opposed to any modifications to the application Mr. Nagle has pending. He says he did marketing. Her child goes to the child development center and she lives within walking distance of this Skater city. She presented flyers that have been posted on the walls and doors stating that they are having a grand pre-opening special for \$100 with proceeds to go to the Enfield Day Care. Ms. Hornski called the other day and spoke with Jeremy on March 30 and he said they were serving pizza all the time prepared by Frankie's. She noted that Frankie's is closed two days of the week. She called North Central Health District and he has no permits pending for food applications. Ms. Hornski stated it shows that Mr. Nagle doesn't follow one thing that he has put before this Commission. He is going for modifications and it is a residential area. There is no need to be open until 2:00 a.m. The flow of traffic will increase and there will be loitering outside. At one point, Ms. Hornski noted that he would be the operator and now he is leasing all three facilities. Mr. Nagle has a web site listed on the flyers and if you go to the web site, it doesn't exist. Ms. Hornski noted nothing Mr. Nagle has stated in any of this paperwork is true. He does not know what he is doing. He doesn't even have tenants yet. She really doesn't like the fact that he is stating that he is giving money to the town day care. Ms. Hornski discussed the flyer and stated they were posted on the exterior doors facing out at Skater City. She presented one to Mr. Giner. Ms. Hornski stated she heard the director of the day care does support the roller rink. She asked if the next modification might be a permit for a liquor license. She also asked if one would be granted and questioned if the day care is a public or private day care. She asked that the Commission table this application until Mr. Nagle works out all these issues. She pulled the file last week and none of the plans now before the Commission were in there. Ms. Hornski doesn't think that someone that resides in New York is going to have the Town of Enfield's best interests at heart.

Neil Marcotte, Clear Street, stated he has been there for close to thirty years and he has seen a lot of different things come and go in this area. He felt it was good to see some kind of business coming to town. This plaza has always been plagued with not having enough anchoring stores to keep the others in there. If there are three more tenants in there and the whole place was occupied, it would support the day care a little better and it would support the two restaurants that are struggling. He is in favor of having someone come in to this plaza. He has two kids and the big complaint is there is nothing for these kids to do. In a town where we don't have enough recreation, this is an opportunity to provide it. Mr. Marcotte stated there used to be a pool hall there. He doesn't think there will be 500 people in this roller rink. He stated none of the other places have cops in there. He suggested checking out other operating rinks and see what they do and if there are EMT's on site.

Commissioner Hickey stated the burden of proof is on the applicant that he is going to meet the applicable conditions of the zoning ordinance.

Mr. Marcotte stated he would like to see the plaza occupied and give the kids something to do. The kids are going to go somewhere and this is a controlled use. He doesn't think it will be a higher density usage than the day care center as far as loading and unloading of vehicles. Mr. Marcotte noted the second story of the building does have full sprinklers and it does have a cemented staircase and is relatively safe. He felt it would be nice to hold private parties upstairs.

Chairman Duren stated the last testimony the Commission had was that there would be no food. The Health Department wasn't involved. With the flyer information, it is an entirely different application. Mr. Giner will have to change the application so that food service is addressed.

Chairman Duren brought up setting times. Mr. Giner stated the question he had was in the last approval the hours of the arcade and the roller rink were the same. In the new approval, he has gotten the hours for roller skating and laser tag but not for the arcade. Mr. Nagle stated the arcade would stay the same as was approved originally. The arcade hours are 12:00 noon to 9:00 p.m. Monday through Thursday and 11:00 a.m. to 10:00 p.m. on Friday and Saturday.

Commissioner Hickey felt the Commission has raised enough questions and Mr. Nagle has not had an opportunity to fully address them. Also, the issue of the addition needs further study. He suggested keeping the hearing open so that Mr. Nagle can address some of the concerns that were raised by both the Commission and the public. Commissioner Hickey stated the property has sat dormant for many years and he would like to see an active, vibrant use in there generating tax dollars for the Town of Enfield.

Commissioner Longhi was in favor of keeping this hearing open to get a more concise idea of just what the Commission is approving.

Commissioner Sarno felt this is a whole different application from what was initially approved. Mr. Giner stated it would be a modification of the original application resulting in a new hearing. Commissioner Sarno saw a need to fine tune this application. She noted it is in a residential area. The woman who spoke previously had a good point that Mr. Nagle is not from Enfield and he will not be here to see what is going on. The town doesn't want to get something where they constantly

have to call on law enforcement and kids are hanging around. She would like to see the application fine tuned to state exactly what is requested. The upstairs has been mentioned and now there is a party use there resulting in a change to the application. Commissioner Sarno was in favor of keeping the hearing open.

Commissioner Hickey would like to see the presentation tailored to the specific provisions of the ordinance.

Commissioner Sarno noted that Enfield has plenty of absentee landlords and does not need any more.

Commissioner Hickey made a motion, seconded by Commissioner Sarno, to keep PH#2659.02 open until April 16, 2009 at 7:30 p.m. The motion was approved by a 7 – 0 – 0 vote.

Mr. Giner asked if there are specific items the Commission wants researched. Commissioner Longhi stated she would like to see hours of operation.

Mr. Nagle stated he will address all the Commission's concerns by the next meeting. He will submit a business plan showing exactly what will be going on in this place so that the Commission understands exactly what they are approving.

Chairman Duren stated Mr. Nagle can tweak the times. However, with the three uses, he is really overloading the place. To him, it is a heavy use for the area.

Commissioner Ladd asked if it would be possible to have a tenant come in. Mr. Nagle stated if he doesn't have a tenant by the next meeting, he will be the tenant. He originally submitted to the Commission that he was the tenant and he does actually intend to open this business in Enfield for its residents. He has worked on the business himself and he has heard the woman's concerns about false advertising. He added that Skater City has not collected one dollar. It has gone through major modifications from the original plan to this one. Through those marketing flyers he has gotten a lot of feedback regarding adult skating. Skater City is designed to be a low cost effective way for children to have something to do. Right now the idea is for \$8 you would have the ability to skate all day and have two slices of pizza. Chairman Duren stated the Commission will see this applicant in two weeks.

- d. PH#2671 – Special Use Permit for an "cruise night " event to be held on or about June 19 at property located at 65 Hazard Ave. (Family Ford) in a BL District, Map 56, Lot 27, Family Ford of Enfield, applicant; Daniel Kossick, owner. (Must close by May 7, 2009)

Mike Moriarty, General Manager of Family Ford, appeared before the Commission regarding this application. He asked if the Commission had any questions regarding his proposal for a cruise night event to be held at 65 Hazard Avenue.

Chairman Duren stated the diagrams submitted answer all the questions very nicely.

Commissioner Longhi asked if there is a difference between the classic car show and cruise night. Mr. Moriarty stated it is basically the same thing. It is a display of nice, shiny older classic cars.

Chairman Duren stated this was done last year and the applicant was not aware of the rules. Now, once he has been in, it can be approved administratively in the future.

Chairman Duren asked if there are any problems regarding fire or police. Mr. Giner stated there have been no problems.

Chairman Duren opened this hearing to the public. No one spoke in favor or against the application.

Chairman Duren asked the applicant if he had any problems with the seven conditions proposed by Mr. Giner. Mr. Moriarty stated he had no problems.

Chairman Duren closed this public hearing.

Commissioner Hickey made a motion, seconded by Commissioner Sarno, to approve PH#2671 – Special Use Permit for a “cruise night ” event to be held on or about June 19 at property located at 65 Hazard Ave. (Family Ford) in a BL District, Map 56, Lot 27, Family Ford of Enfield, applicant; Daniel Kossick, owner.

Conditions which must be met prior to the Issuance of a Permit

1. This approval will become effective upon the filing of a Special Use Zoning Certificate signed by the Commission Secretary on the Land records by the owner of the property. Proof of such filing shall be in the file prior to the issuance of any permits.

General Conditions:

2. The conditions of this approval shall be binding on the applicant, land owners, and their successors and assigns.
3. The operators shall provide adequate monitoring of parking areas and access to ensure that there is no parking or backups onto Hazard Avenue.
4. This approval is for the specific one day use identified in the application. Any change in the nature of the use, including the duration, will require new approvals from the Enfield Planning and Zoning Commission.
5. This project shall be maintained in accordance with the referenced plans. Minor modifications to the approved plans may be allowed in accordance with the regulations, subject to staff review and approval.
6. By acceptance of this permit and conditions, the applicant and owner acknowledge the right of Town staff to periodically enter upon the subject property for the purpose of determining compliance with the terms of this approval.
7. In accordance with Commission policy, subsequent applications for this use may be handled administratively by the Director of Planning with after consulting with the Fire and Police Departments.

The motion was approved by a 7 – 0 – 0 vote with Alternates Dumont and Gregory voting.

- e. PH#2669 – Planning and Zoning Commission initiative for a Text Change to Section 4.10.2A of the Zoning Regulations to allow for finished basements in residential dwellings provided they meet applicable building codes.

Chairman Duren stated this initiative was brought to the Commission by the Thompsonville Revitalization Committee and a real estate person, Mr. Carlson.

Mr. Giner stated that the notice of this was filed with the Town Clerk in accordance with the statutes. There is evidence in the file that they received it. The file was also sent to the Regional Planning Commission within the allotted required time frame and they did respond with a letter dated March 20 finding no apparent conflict with regional plans or policies.

Mr. Giner stated the Commission had a request to look at the regulations, Section 4.10.2a. The way it currently reads it states that all buildings used for residential purposes shall have a full cellar foundation beneath the finished floor area. Mr. Giner noted the gentleman that brought the concern to the Commission's attention made a point that the state building code has changed to allow some type of finished basements provided there is some type of minimum openings that comply with the building code. He felt this would be something that would be beneficial for the Town of Enfield. Mr. Giner stated there was a subsequent letter the Commission received about opening this up to a lot of additional apartments for rooming houses. Mr. Giner noted the regulations for rooming houses do not change. They would still limit the number and it has to be no more than two guests as an accessory use and renting the room to no more than two guests is a special permit use by the Commission. This doesn't open it up to a lot of additional requirements. Mr. Giner stated if you have rooms in the basement, they would have to meet the building code. This was at the request of Mr. Carlson and Mr. Giner is not sure he got written notice that this would be on the agenda tonight.

Chairman Duren stated the Commission has a memo from the Zoning Enforcement Officer.

Chairman Duren opened this hearing to the audience.

Thomas Barry, Madison Road, stated he is here for himself and he thinks this is a really bad idea. Basements are designed for storage only. The stairs going down to the basement wouldn't meet proper standards for a staircase. To expect someone to go out a hatchway in an emergency would be ridiculous. Mr. Barry stated if the Commission is going to increase the occupancy of houses, there will be more cars in the driveways and the driveways are not big enough to handle the cars. The state code requires that every bedroom has to have an exit to the outside. Basement windows are not going to work. The other door is below grade and it would be difficult for someone to try to change a basement. There are also smoke detector issues. There is no heating in most of the basements. You would almost have to rebuild the entire house to make the basement a livable condition. Mr. Barry felt it would be a safety hazard for people living in the basements. There are a lot of people presently living in basements in town that we should get cleaned up. Mr. Barry felt the use of basements for living would degrade the town by filling the streets up with cars and making tenement houses.

Ed Shirley, 27b Belmont Avenue, stated in the past couple of weeks in the State of Connecticut six family members died in the basement from a fire above. Anybody below grade cannot get out. He asked that the Commission take the fatalities that have occurred into consideration. The proper exit is not there.

Chairman Duren stated the Zoning Enforcement Officer mentions in her letter that she had talked to Paul Censki and she mentions the fire on D'Annunzio where a

resident was sleeping in the basement and was badly burned. Chairman Duren stated Paul wanted him to mention that the state building code has separate sections for finished living and bedrooms for basement areas. It is a totally different set of regulations that cover finished basement space. The Enfield Fire Marshals only inspect three family and over structures in town. The Enfield Fire Marshals only sign off on building permits for three family structures or more. The Enfield Fire Marshals only inspect three family and larger structures in the town. If a fireman is called to a two-story dwelling anywhere in Enfield for a late night or early morning fire, they are charged to run up the stairs and rescue first and the cellar is cleared last in a fire. There is no way a fire marshal in the Town of Enfield would have knowledge of bedrooms in the basement. It goes on about renting rooms to guests as an accessory use.

Commissioner Hickey stated in recalling Mr. Carlson's discussions before the Commission, he was emphasizing the occupancy of these basements is more or less for rental. He doesn't see a problem with an owner occupied home if someone is sleeping in the basement but to rent it out and actually have a paying tenant generates a different set of standards.

Commissioner Sarno stated being a realtor she sees all these homes that have finished basements. Some of the things she sees include multi-families living in these houses. It is hazardous all the way around. She would not want to see the firemen putting themselves in harm's way because the Commission decided they were going to have finished basements. Commissioner Sarno stated much of the work done is without permits. She felt basements are basements and not meant to be lived in unless they are walk-out basements. If they are below level, it is a hazard all the way around.

Commissioner Hickey stated someone that rents a basement somehow thinks that the regulations of the Town of Enfield are looking out for them and that is really not the case at all.

Chairman Duren closed this public hearing.

Commissioner Hickey made a motion, seconded by Commissioner Lefakis, to approve PH#2669, Planning and Zoning Commission initiative to amend the zoning ordinance pertaining to finished basements and allow finished basements with or without sleeping quarters to be permitted provided they comply with the escape opening provisions of the state building code as may be amended from time to time.

Commissioner Hickey felt the Commission has underscored some serious concerns.

The motion was denied by a 0 – 7 – 0 vote with Alternates Dumont and Gregory voting.

The reasons for approval are public health and safety and some compelling comments by the people that came forward to speak in opposition.

NEW BUSINESS

Section 8-24 referral – Recommendation to the Town Council regarding the conveyance to the Thompsonville Fire District of either an access and utility

easement or the fee interest in and over town-owned property located on Asnuntuck Street to serve as access to the District's proposed New Fire Station.

Mr. Giner stated the Council needs an 8-24 to be able to go ahead and decide whether to grant an easement or a fee simple interest in an access.

Fire Chief Frank Alaimo of Thompsonville Fire stated what is before the Commission tonight is their secondary access requirement for the proposed new building which will let them have an access out to Asnuntuck Street. The Town Council and the Town Attorney's Office have been working on an easement. He believes this portion of the process is to let the Town Attorney's Office continue.

Mr. Giner stated under Section 8-24 of the Connecticut General Statutes, it requires that before a town can convey any interest in property, they must send a referral to the Planning and Zoning Commission for a recommendation. It's not a site plan approval but a review of whether or not it is in accordance with policies and the Plan of Conservation and Development. A negative recommendation requires that the Town Council approve it by a two-thirds vote. It would come back for a special use permit and that access would be reviewed by the Commission. At this point, it's just a question of whether or not to grant an easement or a fee simple across the town property which is a parking lot currently.

Chief Alaimo stated they are in the process of doing the other parts of the application with the Planning and Zoning Commission and the Zoning Board of Appeals. The applications are coming forward. The reason they are moving along quickly is because of the stimulus package. They moved \$210 million over to FEMA for new fire station construction and that is their goal now. Being shovel ready is the goal to get those monies. The application process is going to open in June and having the permits in place to go along with the application will put them up higher. Their present building is seventy years old and it is not feasible to fix the station.

Commissioner Hickey made a motion, seconded by Commissioner Lefakis, to recommend approval to the Town Council of a Section 8-24 referral for the granting of a conveyance to the Thompsonville Fire District of either an access and utility easement or the fee interest in and over town owned property located on Asnuntuck Street to serve as access to the District's proposed new fire station.

Chairman Duren stated it is up to the Town Council to choose whatever they prefer or whatever they have been advised by the Town Attorney.

The motion was approved by a 7 – 0 – 0 vote with Alternates Dumont and Gregory voting.

Applications To Be Received

The following applications were received by the Commission:

PH#2670 – Application for an approval for a 2,770 +/- building addition at the western end of Brookside Plaza associated with a proposed PetSmart (former location of Barnes & Noble) at 10 Hazard Avenue, zoned BR, Map 56, Lot 22, Equity One (Northeast Portfolio) Inc. Applicant/Owner. (On tonight's agenda)

PH#2659.02 – Application for modifications to allow various items such as adjusted hours and addition in rear to skating rink at 138 South road, zoned BL, Map 55, Lot 9, Ira Nagel, Applicant/Owner. (On tonight's agenda)

PH#2671 – Application for Classic Car Show or "Cruise Night" at 65 Hazard Avenue, Map 56, Lot 22, Family Ford, Applicant/Daniel Kossick, Owner. (On tonight's agenda)

PH#2672 – Application for a Used Car license at 4 Print Shop Road, zoned I-1, Map 99, Lot 9, Jon Abrahamson, Applicant/Owner.

A public hearing will be scheduled for May 7, 2009.

PH#2673 – Application to allow the public to come in to warehouse location and purchase wood pellets by appointment and Saturday 8:30 to 1:00 p.m. at 105 Phoenix Avenue (For zoning purposes No. 105 – it is 103) zoned I-1, Map 46, Lot 27, CJ's Pellet Depot, LLC/Phoenix Avenue Realty, LLC, Owner.

A public hearing will be scheduled for April 16, 2009.

PH#2111.02 – Application to upgrade existing telecommunication system at 1111 Enfield Street, zoned HR-33, Map 20, Lot 122, John Tierney – Transcent Wireless for T-Mobile Communications, Applicant/Connecticut Water Company, Owner.

A public hearing will be scheduled for April 16, 2009.

SPR#1466 – Application to put a temporary outdoor recreation event for a Bowdin Amusements Carnival, April 30 – May 3, 2009 at the Enfield Square, 90 Elm Street, Zoned BR, Map 43, Lot 16, Enfield Square Applicant/Owner.

The Commission granted Jose Giner an administrative approval regarding this application earlier in tonight's agenda.

SPR#1467 – Application for a beauty salon at 287 Hazard Avenue, Zoned HVBL, Map 83, Lot 60, Janice Benoit, Applicant/American Wholesale, Inc., Owner.

SPR#1468 – Application for a barbeque cylinder exchange lockable cage and 36 cylinders at 100 Elm Street (Mobil gas station in front of Square), zoned BR, Map 43, Lot 15, Paraco Gas Corp., Applicant/Mobil Oil Co., Owner.

SPR#1469 – Application for site plan approval for 25,000 +/- square foot medical office building and 106 parking spaces in a BP zone at 17 Middle Road, zoned BP and R-44, Map 56, Lot 11, Enfield Medical partners, LLC, Applicant/Clementine Harris & Elizabeth A. Mobley, Mary Frances Whitson, Owners.

Commissioner Sarno made a motion, seconded by Commissioner Lefakis, to hold a public hearing on SPR#1469 and schedule it for April 16, 2009. The motion was approved by a 7 – 0 – 0 vote with Alternates Dumont and Gregory voting.

Commissioner Longhi stated she has noticed that on the applications that came in tonight there were no dimensions for the building. She asked that Mr. Giner tell applicants that the Commission would like to have dimensions on the building plans.

Mr. Giner stated there will be other applications forthcoming. The person that runs Stella's wants outdoor dining.

ADJOURNMENT

Commissioner Hickey made a motion, seconded by Commissioner Gregory, to adjourn. Following a unanimous vote, the Commission adjourned at 10:40 p.m.

Respectfully submitted,

Peter Falk, Secretary

Enfield Planning and Zoning Commission